A

YUSOF SUDIN

v.

SURUHANJAYA PERKHIDMATAN POLIS & ANOR

B

COURT OF APPEAL, PUTRAJAYA
JAMES FOONG JCA
SURIYADI HALIM OMAR JCA
AHMAD MAAROP JCA
[CIVIL APPEAL NO: M-01-102-04]

C

7 APRIL 2008

ADMINISTRATIVE LAW: *Public servants - Dismissal from police force - Reasonable opportunity to be heard - Whether accorded to appellant - Right to oral hearing prior to dismissal - Whether a matter of discretion*

D

of Police Commission - Refusal of oral hearing - Whether not contrary to law - Public Officers (Conduct and Discipline) (Chapter D) General Orders 1980, G.O 26(6) - Federal Constitution art. 135(2)

The appellant Assistant Superintendant of Police was dismissed

E

from the police force by the first respondent Police Commission upon certain allegations of misconduct. It was not in dispute that prior to the dismissal, the Police Commission had considered the appellant's written representation submitted in response to the charges but ruled that it failed to show sufficient cause. In this

F

appeal against the decision of the High Court affirming the dismissal as lawful and valid, the appellant complained that he was not given a reasonable opportunity to be heard since the Police Commission had refused to conduct an oral hearing, despite his request for it. Such refusal, on the facts and in the circumstances,

G

the appellant argued, ran counter to and contravened the concept of natural justice as enshrined in art. 135(2) of the Federal Constitution.

Held (dismissing the appeal):

H

Per Suriyadi Halim Omar JCA delivering the judgment of the court

(1) In the light of the Federal Court decision in *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal*, it is succinctly clear that an oral hearing is

I

not an absolute right which must be granted to the appellant. Also, the Police Commission has full discretion under General

Order 26(6) to allow or disallow an oral hearing. In this case they had exercised their discretion to refuse and it is not contrary to law. (para 15)

(2) The letter informing the appellant of the impending disciplinary action was in clear language. The question of his dismissal from the police force was also fully spelt out, and by 29 July 1993, *vide* his reply, the appellant had availed himself of the opportunity to be heard on the contemplated dismissal. The appellant was hence afforded the opportunity to make representation to the Police Commission at the earliest stage. In short, he had been given a reasonable opportunity of being heard pursuant to General Order (D) 26, which consists of 11 paragraphs prescribing the procedural steps to be followed in disciplinary proceedings. In them are incorporated the concept of procedural fairness, including the opportunity to be heard as demanded and enshrined in art. 135(2) of the Federal Constitution. (para 17)

Bahasa Malaysia *Translation Of Headnotes*

Perayu, seorang Penolong Peguasa Polis, telah dibuang kerja oleh responden pertama, Pesuruhjaya Perkhidmatan Polis, atas beberapa pertuduhan salahlaku. Tidak dinafikan bahawa sebelum pembuangan kerja tersebut Suruhanjaya Perkhidmatan Polis telah menimbang representasi bertulis perayu yang dikemukakan bagi menjawab pertuduhan-pertuduhan, namun telah memutuskan bahawa ia gagal membangkitkan kausa yang mencukupi. Dalam rayuannya di sini terhadap keputusan Mahkamah Tinggi yang mengesahkan pembuangan kerja sebagai sah, perayu berhujah bahawa beliau tidak diberikan peluang untuk didengar yang munasabah memandangkan Suruhanjaya Perkhidmatan Polis enggan mengadakan pendengaran secara lisan, walaupun diminta oleh beliau. Keengganan tersebut, dalam halkeadaan fakta yang wujud, menurut perayu, telah melanggar dan bertentangan dengan fasal 135(2) Perlembagaan Persekutuan.

Diputuskan (menolak rayuan):
Oleh Suriyadi Halim Omar HMR menyampaikan penghakiman mahkamah

(1) Mengambilkira keputusan Mahkamah Persekutuan di dalam *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal,* amat jelas bahawa suatu pendengaran oral bukan satu hak mutlak yang wajib

diberikan kepada perayu. Begitu juga, Suruhanjaya Perkhidmatan Polis mempunyai budibicara penuh di bawah perintah Am 26(6) sama ada untuk membenar atau menolak pendengaran lisan. Dalam kes ini mereka telah menggunakan budibicara untuk menolaknya dan ia tidak bertentangan dengan undang-undang.

(2) Surat yang memberitahu perayu mengenai siasatan yang hendak diadakan ditulis dalam bahasa yang jelas. Perkara pembuangan kerja dari pasukan polis juga ada dinyatakan, dan pada 29 Julai 1993, melalui jawapannya, perayu telah menggunakan peluang untuk didengar atas persoalan pembuangan kerja yang dijangkakan itu. Oleh itu, sejak awal-awal lagi perayu telahpun diberikan peluang untuk membuat representasi kepada Suruhanjaya Perkhidmatan Polis. Perayu, dengan itu, telah diberikan peluang munasabah untuk didengar bersesuaian dengan Perintah Am (D) 26(6), di mana terkandung 11 perenggan yang menetapkan langkah-langkah prosedur yang perlu diambil di dalam prosiding disiplin. Di dalam perintah ini telah diserap konsep keadilan prosedur, termasuk peluang untuk didengar seperti yang dituntut dan terpahat di dalam fasal 135(2) Perlembagaan Persekutuan.

Case(s) referred to:

Ang Seng Wan v. Suruhanjaya Polis Di Raja Malaysia & Anor [2002] 1 CLJ 493 CA ***(refd)***

B Surinder Singh Kanda v. The Government of the Federation of Malaya [1962] 1 LNS 14 ***(refd)***

Lee Ah Tee v. Ong Tiow Pheng & Ors [1984] 1 CLJ 26; [1984] 1 CLJ (Rep) 187 FC ***(refd)***

Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal [2001] 2 CLJ 525 FC ***(refd)***

M Sentivelu R Marimuthu v. Public Services Commission Malaysia & Anor [2005] 3 CLJ 778 CA ***(refd)***

Mat Ghaffar Baba v. Ketua Polis Negara & Anor [2008] 1 CLJ 773 CA ***(refd)***

Legislation referred to:

Federal Constitution, art. 135(2)

Public Officers (Conduct and Discipline) (Chapter D) General Orders 1980, GO 4(2)(d), 26(6), 36(i)

For the appellant - G Subramaniam Nair (Marisa Regina with him); M/s Aris Rizal Christopher Fernando & Co
For the respondent - Narkunavathy Sundareson (Stephen Chua Chee Keong with her); AG's Chambers

[Appeal from High Court, Melaka; Civil Suit No: 21-4-1997]

Reported by Wan Sharif Wan Ahmad

JUDGMENT

Suriyadi Halim Omar JCA:

[1] This panel had heard the appeal of the appellant on 1 April 2008 and at the end of the hearing had dismissed it with costs. To appreciate our reasons I herewith reproduce the antecedent and facts of the appeal. I will start off with the filing of a writ of summons by the plaintiff (hereinafter referred to as the appellant) at the High Court against the defendants (hereinafter referred to as the respondent) for a declaration that the appellant's dismissal from the Police Force was unlawful, unconstitutional, void and of no effect and that the appellant was still the employee of the 1st respondent and entitled to all the salaries, emoluments and benefits due.

[2] The dismissal's history came about in the following manner. The facts were that the appellant was an Assistant Superintendant of Police in the Police Force and a former employee of the 1st respondent. *Vide* a show cause letter dated 30 June 1993, the 1st respondent had informed the appellant of its intention to dismiss him from the Police Force and had requested him to show cause why he should not be dismissed, pursuant to General Order 26 of the Public Officers (Conduct and Discipline) (Chapter D) General Orders 1980 in relation to five charges brought against him.

[3] The five charges were in relation to the appellant's misconduct in performing his duties as an investigating officer in Branch D7 in the Negeri Sembilan Police Contingent Headquarters. For the period from January 1990 to September 1990 he was alleged to be:

i. dishonest, when he received monthly bribes from an operator of illegal 4-digit activities from one Chong Lee Lin @ Lin Chai through one Ee Ten (the 1st charge);

A ii. irresponsible, when he had failed to take police action against five operators of illegal 4-digit activities in connection with the illegal 4-digit activities carried out by them around the town of Seremban (the 2nd charge);

B iii. irresponsible, when he failed to report to his superior in connection with the illegal 4-digit activities carried out by the five operators and their syndicate around the town of Seremban (the 3rd charge);

C iv. he had conducted himself in a manner likely to cause a reasonable suspicion by allowing his private interests to come in conflict with his public duty for the period from March 1990 and September 1990 when he had established a close relationship with an operator of illegal 4-digit activities by the name of Chong Lee Lin @ Lin (the 4th charge); and

D v. he had conducted himself in a manner likely to cause a reasonable suspicion by allowing his private interests to come in conflict with his public duty for the period from May 1990 and September 1990 when he had established a close

E relationship with an operator of illegal 4-digit activities by the name of Khu Tee Sing @ Ah Seng (the 5th charge).

[4] The detailed charges read as follows:

F 1. Bahawa anda, seorang Pegawai Awam iaitu Penolong Penguasa Polis, di dalam Pasukan Polis Di Raja Malaysia, semasa bertugas sebagai PP Cawangan D7, IPK Negeri Sembilan telah didapati tidak jujur iaitu telah menerima wang sogokan bulanan sebanyak RM 1,000.00 sebulan dari seorang penganjur kegiatan empat ekor haram bernama Chong Lee

G Lin @ Lin Chai (KP: 0216980) melalui Ee Ten (KP: 8204774) dalam tempoh mulai Januari 1990 hingga September 1990 di No. 30, Jalan Tunku Munawir, Seremban, Negeri Sembilan untuk memberi perlindungan ke atas kegiatan empat ekor haram yang dijalankan oleh sindiketnya di sekitar Bandar Seremban, Negeri Sembilan

H dalam tempoh yang berkenaan dan oleh yang demikian kamu telah melakukan satu kesalahan tatatertib di bawah Perintah Am 4(2)(f), Perintah-Perintah Am Pegawai Awam (Kelakuan dan Tatatertib) (Bab D), 1980.

I

2. Bahawa kamu, seorang pegawai awam iaitu Penolong Penguasa Polis di dalam Pasukan Polis Di Raja Malaysia, semasa bertugas sebagai PP Cawangan D7, IPK Negeri Sembilan telah didapati tidak bertanggungjawab, iaitu kamu telah tidak mengambil tindakan polis ke atas lima orang penganjur kegiatan empat ekor haram bernama Chong Lee Lin @ Lin Chai (KP:0216980), Khu Tee Sing @ Ah Seng (KP7695099), Lue Chan Kong @ Siau Lee (KP:2005446), Chong Cham (KP: 2473143) dan Wee Loke Choon @ Ah Choon (KP: 5146858) serta sindiket mereka dalam tempoh mulai Januari 1990 hingga September 1990 bersabit kegiatan empat ekor haram yang dijalankan oleh mereka di sekitar Bandar Seremban, Negeri Sembilan dalam tempoh berkenaan dan oleh yang demikian kamu telah melakukan satu kesalahan tatatertib dibawah Perintah Am 4(2)(g), Perintah-Perintah Am, Pegawai Awam (Kelakuan dan Tatetertib) (Bab 'D'), 1980.

3. Bahawa anda, seorang Pegawai Awam iaitu Penolong Penguasa Polis di dalam Pasukan Polis Di Raja Malaysia, semasa bertugas sebagai PP Cawangan D7, IPK Negeri Sembilan didapati tidak bertanggungjawab, iaitu kamu telah tidak melaporkan kepada pegawai atasan mengenai kegiatan empat ekor haram yang dijalankan oleh Chong Lee Lin @ Lin Chai (KP: 0216980), Khu Tee Sing @ Ah Seng (KP: 7695099), Lue Chan Kong @ Siau Lee (KP: 2005446), Chong Cham (KP: 2473143) dan Wee Loke Choon (KP: 5146858) serta sindiket mereka di sekitar Bandar Seremban, Negeri Sembilan, dalam tempoh mulai Januari 1990 hingga September 1990 dan oleh yang demikian kamu telah melakukan satu kesalahan tatatertib di bawah Perintah Am 4(2)(g), Perintah-Perintah Am, Pegawai Awam (Kelakuan dan Tatatertib) (Bab D), 1980.

4. Bahawa kamu, seorang pegawai awam iaitu Penolong Penguasa Polis, di dalam Pasukan Polis Di Raja Malaysia, semasa bertugas sebagai PP Cawangan D7, IPK Negeri Sembilan telah didapati berkelakuan yang dianggap sebagai membiarkan kepentingan persendirian kamu bercanggah dengan kewajipan-kewajipan awam kamu, iaitu kamu telah menjalin perhubungan yang erat dengan seorang penganjur kegiatan empat ekor haram bernama Chong Lee Lin @ Lin Chai (KP: 0216980) di antara Mac 1990 hingga September 1990 dengan mengetahui ianya adalah penganjur kegiatan empat ekor haram di sekitar Bandar Seremban, Negeri Sembilan, sehingga menjejaskan kegunaan kamu sebagai PP

Cawangan D7, IPK Negeri Sembilan dan oleh yang demikian kamu telah melakukan satu kesalahan tatatertib dibawah Perintah Am 4(2)(c)(i), Perintah Perintah Am Pegawai Awam (Kelakuan dan Tatatertib) (Bab D) 1980.

5. Bahawa kamu, seorang pegawai awam iaitu Penolong Penguasa Polis, di dalam Pasukan Polis Di Raja Malaysia, semasa bertugas sebagai PP Cawangan D7, IPK Negeri Sembilan telah didapati berkelakuan yang dianggap sebagai membiarkan kepentingan persendirian kamu bercanggah dengan kewajipan-kewajipan awam kamu, iaitu kamu telah menjalin perhubungan yang erat dengan seorang penganjur kegiatan empat ekor haram bernama Khu Tee Sing @ Ah Seng (KP:7695099), di antara Mei 1990 hingga September 1990 dengan mengetahui ianya adalah penganjur kegiatan empat ekor haram di sekitar Bandar Seremban, Negeri Sembilan, sehingga menjejaskan kegunaan kamu sebagai PP Cawangan D7, IPK Negeri Sembilan dan oleh yang demikian kamu telah melakukan satu kesalahan tatatertib di bawah Perintah Am 4(2)(c)(i), Perintah-Perintah Am Pegawai Awam (Kelakuan dan Tatatertib) (Bab D), 1980.

[5] The appellant was given the opportunity to make written representation to the 1st respondent through the Inspector General of Police not later than 21 days from the date of receipt of the show cause letter. In response thereto, the appellant had *vide* letter dated 29 July 1993 sent his representation to the 1st respondent relying on the materials he had in his possession. At the inquiry the 1st respondent concluded that the appellant's representation had not shown sufficient cause. As a result *vide* letter dated 15 August 1994, the appellant was dismissed from the Police Force.

[6] At the High Court, where the appellant had applied for a declaration against the respondents, the appellant had contended that the charges were vague and imprecise and that it was almost impossible for anyone to answer meaningfully. The proceedings which resulted in his dismissal were alleged to have been conducted not in accordance with natural justice as enshrined under art. 135(2) of the Constitution. No information, documents or any evidence in the possession of the Police Force Commission was ever given to the appellant. The appellant had alleged that he was deprived of his rights to be heard. The Police Commission should have allowed him an oral hearing but no response was forthcoming despite his request for it.

[7] The respondents on the other hand had stated that the charges were clear. The appellant had understood the charges as he had supplied a defence and had also pleaded in mitigation in his representation without the need to apply for any document from the 1st respondent. The respondents had also stated that it had complied with the relevant provisions of the General Orders. They had asserted that the appellant had been served with the show cause letter which had clearly set out the five charges. He was given the opportunity to make representation and thus had been afforded the right to be heard under art. 135(2) of the Constitution.

[8] A scrutiny of the learned High Court judge's decision by us showed that he had made findings of facts and had opined that the charges were clear, precise and comprehensive. The High Court had concluded that they contained the particulars of all the allegations in the disciplinary offences preferred against the appellant. The appellant had understood the charges against him and had made no attempt or taken any other steps such as applying for further and better particulars or documents. From the notes of proceedings it showed that the agreed issue for determination was whether the appellant's dismissal from the Police Force was fair and valid, having regard to the rules of natural justice, the Public Officers (Conduct & Discipline) (Chapter D) General Orders 1980 and art. 135(2) of the Federal Constitution.

[9] Likewise before us the main grounds of appeal were not dissimilar to the grounds at the High Court, in that the appellant had alleged, *inter alia* that the learned judge had erred in law and in fact when he concluded that the charges were clear, precise and comprehensive on the following basis. Alleged factual errors made by the learned judge included his views that if the charges were not clear, the appellant would not be able to make his representation. Further the finding that the appellant thanked the 1st respondent for affording him opportunity to reply to the charges. Other errors were that the learned judge:

1) had erred in law and in fact when he refused to adjourn the hearing of this case or to stand-down the matter on 21 May 2004 when his counsel was engaged in a part-heard criminal appeal at the Federal Court in case no 05-6-03;

2) had failed to take into account the statutory declarations of the appellant's witnesses denying the appellant's involvement in the matters as alleged in the charges leveled against him;

3) had erred when he decided that there was no procedural unfairness towards the appellant despite there being failure on the part of respondents to supply information and documents to the appellant;

4) had erred in law and in fact when he wrongly applied art. 135(2) of the Federal Constitution; and

5) the learned judge had erred in law and in fact when he failed to consider the duplicity of charges leveled against the appellant.

[10] When I dismissed this appeal I had held the following views:

[11] The Police Commission, which decided on the dismissal of the appellant was not required to afford to the appellant who was a public officer, an oral hearing in relation to art. 135(2) of the Federal Constitution which reads:

> (2) No member of such a service as aforesaid shall be dismissed or reduced in rank without being given a reasonable opportunity of being heard.

[12] My view was in line with the Federal Court authority of *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal* [2001] 2 CLJ 525. The respondent in that case was employed as a hospital attendant at the Penang General Hospital. The first appellant had issued him a show cause letter dated 31 January 1991 to institute disciplinary proceedings for dismissal or reduction in rank on the ground that the respondent's urine sample was positive of morphine in breach of para (2)(d) of the General Order 4 of the Public Officers (Conduct and Discipline)(Chapter D) General Orders 1980 ('the General Orders'). In his letter dated 7 February 1991, the respondent denied that he was a drug addict. On 20 March 1991, the first appellant forwarded to the respondent a letter informing him that he had been dismissed under para (i) of General Order 36 of the General Orders. The respondent was also informed that he had the right to appeal to the Disciplinary Board. The respondent by a letter dated 26 March 1991 repeated what he had said in his letter dated 7 February1991. His appeal was dismissed by a letter

dated 4 July 1991. The respondent instituted proceedings against the appellants for wrongful dismissal and the High Court had decided in his favour. The appellant's appeal to the Court of Appeal was dismissed on grounds that: (a) the respondent had been deprived of his right to make representations on punishment and (b) there was failure of procedural fairness as the respondent was deprived of an oral hearing. Leave to the Federal Court was granted for two questions to be referred one of which is: "does art. 135(2) of the Constitution require the relevant disciplinary authority to afford the public officer an oral hearing."

[13] After a thorough scrutiny of the law, the Federal Court in no uncertain terms answered the above question in the negative.

[14] It is quite unfortunate that subsequent cases considered by courts subordinate to the Federal Court barely touched this case. Regretfully too, the Court of Appeal authorities cited to us in particular *Mat Ghaffar Baba v. Ketua Polis Negara & Anor* [2008] 1 CLJ 773, *Ang Seng Wan v. Suruhanjaya Polis Di Raja Malaysia & Anor* [2002] 1 CLJ 493 and *M. Sentivelu R. Marimuthu v. Public Services Commission Malaysia & Anor* [2005] 3 CLJ 778 are distinguishable and inapplicable, in light of the above Federal Court decision in *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi a/l K Perumal.*

[15] In the light of the above Federal Court case, it is succinctly clear that an oral hearing is not an absolute right, which must be granted to the appellant. Also the Police Commission has full discretion under General Order 26 (6) to allow or disallow an oral hearing. In this instant case, we are of the view they had exercised their discretion to refuse it (this impugned provision reads: "(6) Pegawai itu hendaklah diberitahu bahawa, pada hari yang ditetapkan, soal buang kerja atau turun pangkat itu akan dibawa ke hadapan jawatankuasa dan bahawa ia akan dibenarkan dan jika jawatankuasa memutuskan sedemikian, ia adalah dikehendaki hadir di hadapan jawatankuasa itu dan membebaskan dirinya"). This refusal to allow the appellant an oral hearing is therefore was not contrary to the law.

[16] What was important at the end of the day was the requirement that the appellant be given reasonable opportunity of being heard (*B Surinder Singh Kanda v. The Government of the Federation of Malaya* [1962] 1 LNS 14). In the latter case the report of the board of inquiry, which contained a severe

condemnation of the plaintiff, was sent to the adjudicating officer before the inquiry. The question there for determination was, whether the hearing by the adjudicating officers was vitiated, by reason of him being furnished with the report, without the plaintiff being given an opportunity of correcting or contradicting it. The outcome of this case was irrelevant to us as the salient facts differed with the current appeal.

[17] The pertinent question in this instant appeal was whether he was given reasonable opportunity to be heard? It was observed that the letter informing the appellant of the impending disciplinary action was in clear language. The question of his dismissal from the Police Force was also fully spelt out. By 29 July 1993 *vide* his reply he had availed himself of the opportunity to be heard on the contemplated dismissal by the Police Commission. In brief at the earliest stages he already was afforded the opportunity to make representation to the Police Commission. After due consideration we were satisfied that the appellant had been given a reasonable opportunity of being heard pursuant to the General Order (D) 26, which consists 11 paragraphs prescribing the procedural steps to be followed by way of disciplinary proceedings. In them are incorporated the concept of procedural fairness, including the opportunity of being heard to be afforded to an officer, demanded and enshrined in art. 135(2) as discussed above.

[18] I also found no merit in the appellant's submission that the charges levied on the appellant were imprecise or vague in nature. I agree with the High Court's finding of fact that by the very fact the appellant was able to forward a comprehensive 40 paged representation was testimony of the clarity of the charges.

[19] I also found the submission of the appellant that the learned High Court Judge had given no consideration to the appellant's submission in reply at the hearing in the High Court, where three so-called "statutory declarations" were enclosed to exculpate the appellant, was without merit. It is for the simple reason that such documents should not have been introduced as evidence without an application to adduce fresh evidence being made in the first place. Even a cursory perusal of the so-called statutory declaration, made by one Ghauth bin Abd Ghani, failed to pass the basic test of it qualifying as a statutory declaration; needless to add that the existence of these statutory declarations were

never pleaded. It was obvious that the inclusion of these documents at such a late stage was a devious attempt to extricate himself even up to the last second.

[20] In respect of the complaint of the appellant that the learned judge had refused to postpone the hearing of this appeal due to the engagement of his counsel in another case, we found this untenable, as the said counsel should have been present to conduct it. This appeal was fixed much earlier. He should not have elected to be involved in the other case in another court. It must be understood that *prima facie* the discretion of the judge on whether to permit a postponement of a case is unfettered, though subject to the facts of the case, adequacy of reasons and of course no injustice taking place (*Lee Ah Tee v. Ong Tiow Pheng & Ors* [1984] 1 CLJ 26; [1984] 1 CLJ (Rep) 187). In relation to this case, Practice Direction 5/89 explicitly states that no court should postpone a case, by reason of counsel being engaged in another case held in a more superior court. From a scrutiny of the notes of proceedings, it could fairly be concluded that regardless of (a) whether the appellant's counsel was present or not or (b) whether the request for the case to be stood down for the day was rejected, are factors which had become academic. This was so as the mentioning counsel had stated that "plaintiff would not be calling any witnesses but would put in written submission." On that premise the case would invariably be ordered by the learned judge to be postponed in order to allow parties to file the necessary written submission. This would unwittingly satisfy the appellant's requirements.

[21] To wind it up, it must clearly be stated that we were not involved in the evaluation of evidence adduced before the Police Commission, but to satisfy ourselves whether procedural fairness had been administered. Based on the above reasons, we were indeed satisfied that the dynamics of procedural fairness had been administered, and hence had unanimously dismissed the appeal with costs. We had ordered the deposit of this appeal paid to the respondents towards the account of taxed costs.

[22] My brother judges YA Dato' James Foong and YA Dato' Ahmad Maarop had read the draft copy of this judgment and agree with the contents therein.